

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BRANDON LEE MAIN,

Defendant.

CR 10-52-M-BMM-JTJ

**FINDINGS AND
RECOMMENDATIONS**

I. Synopsis

Defendant Brandon Lee Main (Main) has been accused of violating the conditions of his supervised release. Main admitted all of the alleged violations. Main's supervised release should be revoked. Main should be placed in custody for 12 months and 1 day, with no supervised release to follow. Main should serve his term of custody at the Federal Correctional Institution in Sandstone, Minnesota.

II. Status

Main pleaded guilty to Conspiracy to Distribute Cocaine on February 18, 2011. (Doc. 18). The Court sentenced Main to 110 months of custody, followed by 5 years of supervised release. (Doc. 26). Main's current term of supervised release began on October 14, 2022. (Doc. 116 at 4).

Petition

The United States Probation Office filed a Petition on February 24, 2023, requesting that the Court revoke Main's supervised release. (Doc. 116). The Petition alleges that Main violated the conditions of his supervised release: 1) by using methamphetamine; 2) by failing to report for substance abuse testing; 3) by possessing methamphetamine; and 4) by consuming alcohol. (Doc. 116).

Initial appearance

Main appeared before the undersigned for his initial appearance on March 7, 2023. Main was represented by counsel. Main stated that he had read the petition and that he understood the allegations. Main waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

The Court conducted a joint revocation hearing in this case and in Cause CR 20-79-GF-BMM-JTJ on March 7, 2023. Main admitted that he had violated the conditions of his supervised release: 1) by using methamphetamine; 2) by failing to report for substance abuse testing; 3) by possessing methamphetamine; and 4) by consuming alcohol. The violations are serious and warrant revocation of Main's supervised release.

Main's violations are Grade C violations. Main's criminal history category is VI. Main's underlying offense is a Class B felony. Main could be incarcerated for up to 36 months. Main could be ordered to remain on supervised release for up to 55 months, less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 8 to 14 months.

III. Analysis

Main's supervised release should be revoked. Main should be placed in custody for 12 months and 1 day, with no supervised release to follow. This sentence is sufficient but not greater than necessary. Main should serve his term of custody at the Federal Correctional Institution in Sandstone, Minnesota.

IV. Conclusion

The Court informed Main that the above sentence would be recommended to Chief United States District Judge Brian Morris. The Court also informed Main of his right to object to these Findings and Recommendations within 14 days of their issuance. The Court explained to Main that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose. Main stated that he wished to waive his right to object to these Findings and Recommendations, and that he wished to waive his right to allocute before Judge Morris.

The Court FINDS:

That Brandon Lee Main violated the conditions of his supervised release by using methamphetamine; by failing to report for substance abuse testing; by possessing methamphetamine; and by consuming alcohol.

The Court RECOMMENDS:

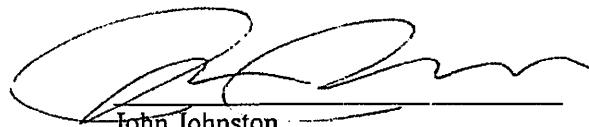
That the District Court revoke Main's supervised release and commit Main to the custody of the United States Bureau of Prisons for 12 months and 1 day, with no supervised release to follow. The sentence imposed in this case should run concurrent with the sentence imposed in Cause CR 20-79-GF-BMM-JTJ. Main should serve his term of custody at the Federal Correctional Institution in Sandstone, Minnesota.

NOTICE OF RIGHT TO OBJECT TO FINDINGS AND RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A district judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district judge, and may

waive the right to appear and allocute before a district judge.

DATED this 8th day of March, 2023.



John Johnston
United States Magistrate Judge